

Appl. No. 10/502,066  
Amendment dated December 19, 2005  
Reply to Office Action of September 26, 2005

### **REMARKS**

Applicant requests entry of this Amendment and reconsideration of the rejection of the claims.

#### **35 U.S.C. § 101**

The Examiner has stated that claims 9 and 14-19 are provisionally rejected under 35 U.S.C. § 101 as claiming the same invention as that of claims 1, 14, 17-19, 21 and 25 of co-pending application no. 10/350,478. Applicant has expressly abandoned application no. 10/350,478, and encloses herein a copy of correspondence to the Patent Office filed today stating same. Therefore, Applicant respectfully submits that this rejection is now moot. Applicant respectfully requests removal of this rejection.

#### **Non-Statutory Obviousness-type Double Patenting**

The Examiner has provisionally rejected claims 1-42 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-25 of co-pending application no. 10/350,478 in view of Fisher, U.S. 2004/0209849 A1; Ponec, The New England Journal of Medicine, 341(3):137-141 (1999); and Lutt et al., U.S. 5,561,165. Applicant respectfully submits that, in light of the express abandonment of application no. 10/350,478, the obviousness-type double patenting rejection is moot. Applicant respectfully requests removal of this rejection.

In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of the rejections.

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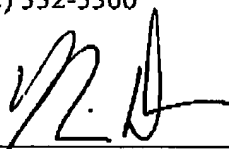
**SUMMARY**

Applicant respectfully submits the claims are now in condition for allowance. Applicant requests notification to that effect. The Examiner is invited to contact Applicant's representative if prosecution maybe assisted.

Respectfully submitted,

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Date: December 19, 2005

  
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